

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
of **Walden**
Town
Village

Local Law No. 4 of the year 2013

A local law **to revise Chapter 277 [Towing] of the Code of the Village of Walden**
(Insert Title)

Be it enacted by the **Village Board**
(Name of Legislative Body)

of the
County
City
of **Walden** as follows:
Town
Village

Section 1. Findings and Purpose:

The purpose of this Local Law is to revise Chapter 277 [Towing] of the Code of the Village of Walden.

Section 2. Section 277 entitled “Towing” of the Code of the Village of Walden shall be deleted in its entirety and replaced with the following new Chapter 277 entitled “Towing:”

§ 277-1. Permit required.

No person, firm or corporation shall operate or hire a truck or other type of motor vehicle designed and able to provide road service to tow other motor vehicles from public places, streets or highways within the Village of Walden unless a license therefore shall first have been obtained from the Clerk for the Village of Walden as hereinafter provided and paid for in accordance with the Schedule of Fees for Tow Truck Operators as duly adopted by the Village of Walden Board of Trustees and as may be amended from time to time. This provision shall not be deemed to require licensing of tow truck

operators who tow vehicles from private garages, residences or other private places with the prior consent of the vehicle owner or tow truck operator towing vehicles through the Village on state or county roads.

§ 277-2. Application for Permit; eligibility, denial and expiration.

- A. Application. No such Permit shall be issued unless an affidavit of application therefore has been filed with the Village Clerk by the applicant, duly sworn to by said applicant before a duly licensed notary public of the State of New York, and thereafter approved. The applications shall include the following information:
- (1) The name and business address of the applicant and, if a natural person, his age and residential address.
 - (2) The registration number of the tow truck or trucks to be operated and the New York State repair garage license number, if any.
 - (3) A certificate of insurance shall be provided which requires notice to the Village in the event of cancellation or nonrenewal, which shall indicate the following:
 - (a) The amount of liability insurance for personal injury and property damage on said service or tow truck; the name of the insurance company, which must be licensed to do business in the State of New York; and the policy number. The limits shall be not less than \$100,000 for each person and \$300,000 for each occurrence and not less than \$25,000 for property damage.
 - (b) All Permittees engaged in towing and storing vehicles shall have a garage keeper's legal liability policy to cover fire, theft and property damage that will cover any vehicle towed, impounded or stored and will keep such policy in effect through their Permit period, in insurance limits not less than as set forth above.
 - (4) An affidavit on compliance with the requirements of this chapter, indicating that the applicant has read the chapter and meets all requirements for issuance of the Permit.
- B. Eligibility, denial, revocation and expiration.
- (1) Eligibility. Each person, firm or corporation operating a tow truck business in the Village of Walden may obtain a Permit for all tow truck(s) it desires to operate, provided that such person, firm or corporation abides by the regulations set forth herein. No individual truck may be Permitted by more than one applicant.
 - (2) Denial or revocation. The Village Board may in each case, after a public hearing, either deny a Permit to any applicant whom the Board shall determine to be an undesirable person or incapable of properly conducting a road service or tow truck business or revoke the Permit or Permits of any Permittee whom the Board shall determine has violated the provisions of this chapter.
 - (3) Expiration. Every Permit issued pursuant to this chapter shall expire on the 31st day of March following the issuance thereof, and no such Permit is transferable from one operator to another, nor from one truck to another, without the prior written consent of the Village of Walden.

§ 277-3. Equipment requirements.

- A. No vehicle shall be Permitted under this chapter unless the vehicle to be Permitted is properly registered and inspected as required by the Vehicle and Traffic Law of the State of New York. Each wrecker or service truck shall meet all of the requirements of the Vehicle and Traffic Law for such vehicles.
- B. On each side of every tow truck for which a Permit has been granted, there shall be, legibly inscribed in letters not less than three inches high, the name and address of the owner or Permittee of such tow truck and the Permit number posted on the cab.
- C. Each wrecker or service truck shall be equipped with an amber rotating light mounted at the top of the cab of such vehicle and shall be of a type that contains at least two sealed beam bulbs and is visible 360⁰ for a distance of not less than 500 feet under normal atmospheric conditions, or equal lighting equipment.
- D. Each wrecker or service truck shall be equipped with two flashing red lights (four-way flashers) so mounted as to show the width of the vehicle from the rear; said lights shall be visible for a distance of not less than 500 feet under normal atmospheric conditions.
- E. Each wrecker or service truck shall be equipped with not less than 12 thirty-minute burning-type flares and three reflecting-type flares.
- F. Each wrecker or service truck shall be equipped with a fire extinguisher, the minimum rating of which shall be at least 10 pounds ABC.
- G. Each wrecker shall be equipped with hoisting equipment of sufficient capacity to perform the service intended. The hoisting equipment of each wrecker shall be securely mounted to the frame of such vehicle. The winch of such hoisting equipment shall contain not less than 100 feet of steel strand cable; said cable shall be one continuous length and shall be free from breaks, splits or knots.
- H. Each wrecker or service truck shall be equipped with a broom, shovel and crowbar.
- I. Each wrecker or service truck shall be CB-equipped to monitor Citizens Band Channel 9.

§ 277-4. Prohibited acts.

- A. Removal from scene of accident. It shall be unlawful for any person, firm or corporation to service or tow away any motor vehicle which has been involved in an accident without the prior consent of the owner or operator and the police officer at the scene of the accident. No motor vehicle shall be serviced at or removed from the scene of an accident where the police officer requires or requests that an examination be made of the damaged vehicles to determine whether the vehicle was defective or where the police officer requires or requests that photographs and/or diagrams of the scene be made.
- B. Failure to remove debris. When called to the scene of an accident the Permitted firm shall be responsible for removing debris from the roadway, such as glass, metal fragments, etc., leaving the roadway free from such debris. Failure to remove debris shall be unlawful.
- C. Solicitation. It shall be unlawful for any person, firm or corporation to drive along any public street or highway within the Village of Walden for the sole purpose of soliciting towing and/or repair work. It shall be unlawful for any person, firm or corporation to solicit towing or repair work at the scene of any motor vehicle accident on private property or on a public highway within the Village of Walden. The stopping of any tow truck or service truck within 500 feet of the scene

of any accident or disabled vehicle on any public street or highway in the Village of Walden without the prior authorization of the operator of the vehicle, owner of the vehicle, a member of the Village of Walden Police Department or a member of the New York State Police shall be presumptive evidence of the intent of the operator of a tow truck or service truck to solicit towing or repair work, except if the owner flags down a passing tow truck or service truck.

- D. Cruising. Cruising for the purpose of solicitation of towing or repair work shall be unlawful. "Cruising" shall be defined as the driving along the public highways or roadways solely for the purpose of soliciting towing or repair work and without having been first called or otherwise requested to provide service.

§ 277-5. List of Permittees; calls for assistance.

- A. Designation by owner/operator. The owner or operator of a vehicle in need of service may designate the person or establishment to tow the vehicle, whether or not such person or establishment is Permitted by the Village of Walden, provided that such person or establishment complies with all applicable rules and regulations in towing the vehicles.
- B. Request of assistance. Whenever a member of the Police Department is requested to provide assistance in obtaining a tow truck, the police officer shall present to the owner or operator of the vehicle a list of all Permitted tow operators, which list shall include a schedule of fees. The owner or operator may then designate a Permitted tow truck operator from the list and shall thereafter be responsible for such fees and charges of the Permitted operator.
- C. Failure of Permitted operator to promptly arrive. In the event that a firm called for towing or service assistance is unable or fails to arrive at the location where assistance is requested within 15 minutes, commencing from the time the firm is notified, another firm may be called, and the first firm called shall not be entitled to any compensation in such event.

§ 277-6. Impounding; collection of fees; rotating list to be kept.

- A. If the Police Department directs a Permitted tow operator to tow and impound a motor vehicle, such operator shall provide the facilities to store said vehicle. All firms called upon to impound a vehicle for the Village of Walden Police Department must store the vehicle within the limits of the Town of Montgomery unless directed otherwise by a member of the Police Department.
- B. The Permitted firm shall be responsible for the collection of all fees for service, towing or storage of any vehicle. Neither the Village of Walden nor any of its agencies or employees shall act as agent for the collection of any fees, nor shall they be held responsible in the event of nonpayment of any moneys due to any Permitted firm as a result of the services performed in accordance with this chapter. All permitted tow operators are authorized to collect those fees set forth in the fee schedule for tow truck operators as adopted by the Village of Walden Board of Trustees and has may be amended from time to time and as is on file with the Office of the Village Clerk and the Village Police Department.
- C. The Permitted firm is responsible for compliance with all applicable rules and regulations regarding the impound and disposition of the vehicle and shall provide all required notices.
- D. The Police Department shall maintain a rotating list of all tow truck establishments Permitted by the Village of Walden, and the Village Police shall designate tow truck establishments on a rotating basis. A person or persons designated by the Village Board of the Village of Walden shall maintain a rotating list of all tow truck establishments Permitted by the

Village of Walden, and the Village Police shall designate tow truck establishments on a rotating basis. If one Permitted tow truck operator is called for a tow operation, he shall not again be called for towing until such time as all other persons on the rotating list have been called or have been unable to meet a call when called.

§ 277-7. Liability; indemnification.

The licensing of towing operators pursuant to this chapter shall create no new or additional liability for the Village of Walden. The duties performed by the Village pursuant to this chapter are general duties owed to the public. No person is authorized to create a special duty to anyone either by representation, act or omission. Permittees pursuant to this chapter shall indemnify the Village to the fullest extent allowable by law.

§ 277-8. Inspection; suspension.

The Chief of Police or his designated representative may cause to be inspected each Permittee's place of business and Permitted vehicle(s) not less than, but not limited to, twice each year. In the event that the Permitted firm fails to comply with the provision herein contained, the Chief of Police shall suspend the Permitted firm from the list of Permitted firms maintained at the Police Department and so notify the Village Board of Trustees in writing. The Permitted firm shall remain suspended until all violations are corrected. Said firm shall be entitled, upon request within seven days, to a public hearing before the Village Board of Trustees, to renew and approve or terminate said suspension.

§ 277-9. Penalties for offenses.

- A. Any person or entity guilty of violating any of the provisions of this chapter shall be guilty of an offense.
- B. Any person or entity committing an offense against any provision of this chapter shall, upon conviction therefore, be subject to a fine not to exceed \$50 for the first offense.
- C. Any person or entity committing an offense hereunder within six months of his or its conviction of any prior offense hereunder shall be fined not less than \$50 nor more than \$1,000 and/or shall have his or its Permit suspended for a period of 60 days.
- D. Any person or entity committing an offense hereunder within 12 months of his or its conviction of more than one other offense hereunder shall be fined not less than \$500 and shall have his or its Permit suspended for a period of 120 days.
- E. Any person or entity operating a tow truck, as defined in § 277-1 above, in violation of any of the provisions herein shall be guilty of an offense which, upon conviction therefore, will subject said person or entity to a fine of not less than \$100 nor more than \$1,000 or a term of imprisonment of not more than 60 days, or both.

Section 4. SEORA

4.1 This local law is an unlisted action pursuant to the implementing regulations of the *Environmental Conservation Law* as set forth at *6 NYCRR 617 et.seq.* There are no other involved agencies, coordinated review is not required and Board of Trustees shall act as Lead Agency in connection with this local law.

Section 5. Severability

5.1 The invalidity or unenforceability of any particular provision of this local law shall not affect the validity or enforceability of other provisions of this local law, which such provisions shall continue to be both enforceable and valid.

Section 6. Effective Date

6.1 This local law shall take effect upon the filing of certified copies thereof with the Office of the Secretary of State in accordance with the Municipal Home Rule Law.